How to Lock Down Your Document Recording Processes

Focus on compliance and security

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Electronic document recording (eRecording), as it pertains to the title industry, is the process of digitally creating, submitting, and recording legally binding land ownership records. Depending on the jurisdiction and document type, the eRecording process enables submitters to create, sign, notarize, and transmit documents—and recording offices to record, index, archive, and return them—all while reducing paper usage, costs, and rejections.

More than a decade ago, when eRecording was still in its infancy, some submitters and recording officers worried about the electronic process, wondering, would it be as legally binding as a paper recording? Was it more susceptible to fraud or errors?

We now know that eRecording is as equally valid as paper recording in states that have authorized the process, and it makes it even easier for submitters to comply with the various jurisdiction recording requirements. Moreover, advances in technology have made eRecording an even more secure process that ensures that submitters and recording offices retain total control over real estate documents.

In this insight report, we will examine these important aspects of electronic document recording and how document submitters—including title companies, real estate attorneys, and lenders—can realize immediate compliance and security benefits by adopting an eRecording process.

Compliance simplified

A number of factors influence whether a recording office will accept a real estate document for recording—not only its content, but everything from the document's size and layout to the payment and information that accompanies it. These factors vary between jurisdictions, and even recording offices in the same state may have different requirements. Because these requirements are built into the electronic recording process, eRecording helps submitters prepare and record real estate documents correctly the first time.

Meeting requirements with ease

Certain recording requirements can make the paper process a challenge, including the right number of pages in the right order; page color, margin size, and white space; elements like the notary block appearing in the right place and color; and even the order in which a document is submitted with other documents related to the process. Configured correctly, the eRecording process ensures that all of these requirements are met. And because they are built into the process, you don't have to research jurisdiction-specific requirements every time you submit a new document.

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Indexing by jurisdiction

Many jurisdictions enter additional "indexing" information into their land records management system that identifies specific data points in a document. In the paper process, a staff member at the recording office must scan the land record for this information and enter it manually, increasing the chances of incorrect information or typos. The eRecording process prompts for this indexing information by jurisdiction, giving the submitter control over the data that gets indexed.

Faster filings

Each state has requirements as to when real estate documents must be filed, depending upon the transaction and the type of document. eRecording helps get the document into the public record as quickly as possible to satisfy this requirement. Furthermore, recordings are date- and time-stamped, so you

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can actually validate that it happened in accordance with the requirement.

Proper payments

Fees vary by jurisdiction, document type, number of pages, and taxes on the transaction. In the paper process, an error in calculation or failure to attach payment will result in a rejection. Even a single incorrect document fee can prompt the rejection of an entire batch. But with eRecording, the calculation is built into the process, so you'll get it right the first time. Plus, there is no need to delay handoff to another department to write a check, as the payment is automatically forwarded and processed in the process.

Control issues— and a solution

Though some submitters and recording offices initially voiced concern about whether the eRecording process was more susceptible to fraudulent activity, what they really should have considered was the inherent loss of control in the *paper* recording process.

The problem with manual document recording is that for much of the process—from the initial preparation to the customer's receipt of the acknowledgement—the document is out of the submitter's control. Documents may be routed through several departments for preparation, signing, and notarization, and to attach payment. In most cases, submitters are then handing over their documents to a third party—a courier or the postal service—to deliver them to the recording office. In the paper process, it would be difficult, if not impossible, to guarantee that the records were not altered at any point.

But eRecording improves the security of each step in the process because there are fewer points where the submitter (or recorder) loses control over the document in question, making eRecording a much more secure solution.

The importance of verification

Some document submitters have voiced concerns about the relationship of the so-called "robo-signing" scandal to the electronic recording process. But robo-signing refers to a purely human

process—the practice of a person falsely swearing to the accuracy of large numbers of foreclosure documents. While robo-signing can be performed electronically, in the context of the foreclosure crisis, it was nearly always a pen and ink practice.

With this and other forms of document fraud, submitters must still take care to properly prepare real estate documents for recording. With the eRecording process, control can be limited to the appropriate parties through the use of secure, web-based technology. eRecording defines and controls who is allowed to prepare and sign a document as well as proper notarization and attestation. With the audit log, all of this can be verified when the need arises.

Signing and notarization

Some recording jurisdictions permit submitters to prepare some document types (e.g., lien satisfactions) using an entirely electronic process, sometimes referred to as Level 3 eRecording. The document can even be signed and notarized electronically using special technology that eliminates the handwritten name experience. Instead, a digital

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signature consists of a series of numbers generated by complex algorithms, involving encryption technology rather than penmanship. A digital notary certificate requires an even higher level of user authentication because it does a professional check to prove that the person is authorized as a notary. Instead of an embossed stamp, the notary uses a digital signature based upon a digital certificate. It can be created only by a notary public who has specific credentials. These digital signatures and digital notary certificates are installed on the user's specific hard drives, adding a layer of security and control to the eRecording process.

Secure, controlled delivery

Once a document has been properly prepared, signed, and notarized, a submitter's major concern is to ensure that nothing on that document is changed or altered en route to the recording jurisdiction. This is where the electronic recording process shines in comparison to the paper process. While routing the document between departments (the mailroom, the accounting department, etc.) results in some loss of control, handing over a paper document to a courier on a bicycle results in a total loss of control. Having the endorsed or rejected documents returned by regular mail is equally problematic. With eRecording, the handoffs between the submitter, the eRecording delivery service, and the recording jurisdiction are secure, can be controlled, and are available for audit. Encryption and digital wrapping technology ensure that third parties cannot access, intercept, or change documents in transit. What's more, each event is time- and date-stamped for a complete audit trail. Each step in the process can be verified. And it is possible to validate that the document has not been altered at any point.

Conclusion

From promising beginnings more a decade ago, the eRecording process has matured into a technology that is now embraced by countless lenders and law offices and implemented within thousands of jurisdictions nationwide, with more counties coming online every day.

The advantages eRecording offers with respect to speed, security, and ease of compliance cannot be ignored. Time and widespread use have not only upheld the eRecording process's legal validity but have shown it to be the preferred method for limiting fraud and reducing errors and rejections.

In short, eRecording offers a clear way forward for submitters ready to adopt a more convenient, more controlled, and faster process for getting their real estate documents recorded and into the public record.

Learn more about eRecording solutions from CSC

CSC® provides eRecording solutions that establish an electronic bridge between submitters of real estate documents and county offices, enabling documents to be prepared, submitted, recorded/rejected, indexed, and returned quickly, efficiently, and electronically. An internet connection, a PC, and a printer/scanner are all that are needed to start eRecording. Our system is easy to set up and simple to use.

Would you like to learn more about our eRecording solutions? Call 1 866 652 0111 (toll-free), email erecording@cscglobal.com, or visit erecording.com.

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